

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JASON ROSALES,

Defendant.

:

:

Case No. 3:17cr024

:

JUDGE WALTER H. RICE

:

DECISION AND ENTRY OVERRULING DEFENDANT'S MOTION,
PURSUANT TO FED. R. CRIM. P 52 (b) REFERENCE COURTROOM
MISCONDUCT/"DELIBERATE JURY TAMPERING," CONSTRUED BY
THE COURT AS A MOTION FOR NEW TRIAL BASED UPON PLAIN
ERROR

Pursuant to the record made in open Court on April 11, 2019, the Defendant's filing captioned "F.R.C.P. 52(b): Re; Courtroom Misconduct/'Deliberate Jury Tampering,' " construed by this Court as a motion for new trial, based upon plain error, is OVERRULED by this Court, for the following reasons:

1. The motion is untimely;
2. The allegation that Defendant was prejudiced by the jury being able to overhear bench conferences is not proven, given that, assuming *arguendo*, the jury heard the bench conferences in question, same were not prejudicial to the Defendant; and
3. The allegation that a representative of the United States Attorney's Office posted Defendant's past criminal record on her computer screen, in view of the jury, was not proven, by anywhere near proof beyond a reasonable doubt. As a matter of fact, the

evidence introduced in open Court on the aforesaid April 11, 2019, clearly indicated that Defendant's past criminal record was not so posted.

May 24, 2019



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record